

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

JAMES G. HANNA

Petitioner,

-v-

TODD ISHEE, Warden

Respondent.

Case No. C-1:03-cv-801

**Judge Thomas M. Rose
Magistrate Judge Michael R. Merz**

ENTRY AND ORDER OVERRULING HANNA'S OBJECTIONS (Doc. #142) TO THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATIONS; ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATIONS GRANTING IN PART AND DENYING IN PART HANNA'S REQUEST FOR A CERTIFICATE OF APPEALABILITY (Doc. #140) IN ITS ENTIRETY AND TERMINATING THIS CASE

This matter comes before the Court pursuant to Petitioner James Hanna's ("Hanna's") Objections to Magistrate Judge Michael R. Merz's Report and Recommendations regarding Hanna's Motion for Certificate of Appealability.¹ (Doc. #137.) The Report and Recommendations were issued on June 23, 2009. On July 31, 2009, Hanna filed Objections. (Doc. #142.) The Warden responded to Hanna's Objections on August 4, 2009. (Doc. #143.) Hanna's Objections are, therefore, ripe for decision.

As required by 28 U.S.C. §636(b) and Federal Rules of Civil Procedure Rule 72(b), the District Judge has made a de novo review of the record in this case. Upon said review, the Court finds that Hanna's Objections to the Magistrate Judge's Report and Recommendations are not

¹In this entry, the Magistrate Judge also ordered that Hanna may proceed on appeal *in forma pauperis*.

well-taken, and they are hereby OVERRULED. The Magistrate Judge's Report and Recommendations is ADOPTED in its entirety.

Hanna is granted a certificate of appealability as to (1) that portion of Ground Three which complains of failure to disclose what Petitioner has characterized as *Brady* material relating to the testimony of Ricardo Lee, (2) Subparts A and E of Ground Four, (3) Subparts A and B of Ground Five, both as to procedural default and the merits, and (4) Ground Six. A certificate of appealability on all other grounds is denied.

The captioned cause is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

DONE and **ORDERED** in Dayton, Ohio, this Fourth day of September, 2009.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record